IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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C.W.P NO. 15272 OF 2006

Date of decision : October 16, 2006

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Baldev Singh Saini .....Petitioner

Vs.

Uttri Haryana Bijli Vitran Nigam Ltd. & another .....Respondents

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CORAM: HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S BHALLA

Present: Mr. Pritam Saini, Advocate for the petitioner(s).
Mr. Narender Hooda, Advocate for the respondents.

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Viney Mittal, J. (Oral)

The petitioner has challenged the order dated September 11, 2006 (Annexure P-1) passed under Section 126 of the Indian Electricity Act, 2003 (hereinafter referred to as `the Act'). According to the petitioner, the aforesaid order Annexure P-1 is absolutely illegal and not in terms of the provisions of Section 126 of the Act inasmuch as, in the first instance, a provisional order is required to be passed by the Assessing Authority inviting objections from the consumer. However, the said provisions have not been followed.

Learned counsel for the petitioner at the outset informs that although, an appeal is competent under Section 127 of the Act, but as of today no Appellate Authority has been constituted by respondent no.1 and

as such no appeal can be filed by the petitioner against the order Annexure P-1.

Sh. Narender Hooda, learned counsel appearing for the respondents very fairly states that as of today, there is no Appellate Authority constituted under Section 127 of the Act. However, Sh. Hooda informs that an appellate authority is likely to be constituted very shortly, may be within one month.

In view of the aforesaid factual position and also keeping in view that the order Annexure P-1 is appealable under the Act before the Appellate authority and also keeping in view the fact that as of today, there is no appellate authority and the same is likely to be constituted very shortly, we dispose of the present petition with a liberty to the petitioner to file an appeal within a period of 4 weeks from the date of the notification of the constitution of the said Appellate Authority.

If any appeal is filed within the aforesaid period by the petitioner, then the Appellate Authority shall adjudicate the aforesaid appeal in accordance with law, without rejecting the same on the ground of delay.

Till the appeal is filed by the petitioner, as aforesaid, no coercive process shall be initiated against the petitioner for recovery of the dues arising out of Annexure P-1. However, we make it clear that if no appeal is filed by the petitioner in terms of Section 127 of the Act within the aforesaid period, then the protection granted to the petitioner shall automatically lapse and thereafter the respondents would be at liberty to initiate the proceedings against the petitioner in accordance with law.

Copy of the order be given dasti on payment of the usual charges.

(VINEY MITTAL)
JUDGE

October 16, 2006
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(H.S BHALLA)
JUDGE